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8
9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12
13 In the Matter of the Third Amended
Accusation Against:

14 JAY HAI YOO, M.D.

15 6912 Iron Oak Drive
16 Bakersfield, CA 93312

17 Physician's and Surgeon's Certificate
18 No. C 43367,

19 Respondent.

Case No. 800-2015-010916

OAH No. 2018010450

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

20
21 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
22 entitled proceedings that the following matters are true:

23 **PARTIES**

24 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
25 of California (Board). She brought this action solely in her official capacity and is represented in
26 this matter by Xavier Becerra, Attorney General of the State of California, by Christina Sein
27 Goot, Deputy Attorney General.

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2. Respondent Jay Hai Yoo, M.D. (Respondent) is represented in this proceeding by attorney Raymond J. McMahon, Esq., whose address is: 5440 Trabuco Road, Irvine, California 92620.

3. On or about August 21, 1996, the Board issued Physician's and Surgeon's Certificate No. C 43367 to Respondent. That Certificate was in full force and effect at all times relevant to the charges brought in Third Amended Accusation No. 800-2015-010916, and will expire on June 30, 2020, unless renewed.

JURISDICTION

4. Third Amended Accusation No. 800-2015-010916 was filed before the Board, and is currently pending against Respondent. The Third Amended Accusation and all other statutorily required documents were properly served on Respondent on April 30, 2019. Respondent timely filed his Notice of Defense contesting the Third Amended Accusation.

5. A copy of Third Amended Accusation No. 800-2015-010916 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Third Amended Accusation No. 800-2015-010916. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Third Amended Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

1 **CULPABILITY**

2 9. Respondent does not contest that, at an administrative hearing, Complainant could
3 establish a *prima facie* case with respect to the charges and allegations contained in Third
4 Amended Accusation No. 800-2015-010916 and that he has thereby subjected his license to
5 disciplinary action.

6 10. Respondent agrees that if he ever petitions for modification of these terms, or if a
7 subsequent Accusation is ever filed against him before the Board, all of the charges and
8 allegations contained in Third Amended Accusation No. 800-2015-010916 shall be deemed true,
9 correct and fully admitted by Respondent for purposes of any such proceeding or any other
10 licensing proceeding involving Respondent in the State of California.

11 11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
12 discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the
13 Disciplinary Order below.

14 **CONTINGENCY**

15 12. This stipulation shall be subject to approval by the Medical Board of California.
16 Respondent understands and agrees that counsel for Complainant and the staff of the Medical
17 Board of California may communicate directly with the Board regarding this stipulation and
18 settlement, without notice to or participation by Respondent or his counsel. By signing the
19 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
20 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
21 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
22 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
23 action between the parties, and the Board shall not be disqualified from further action by having
24 considered this matter.

25 13. The parties understand and agree that Portable Document Format (PDF) and facsimile
26 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
27 signatures thereto, shall have the same force and effect as the originals.

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14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

A. PUBLIC REPRIMAND

IT IS HEREBY ORDERED THAT Physician's and Surgeon's Certificate No. C 43367 issued to Jay Hai Yoo, M.D., shall be and is hereby publicly reprimanded pursuant to California Business and Professions Code section 2227, subdivision (a)(4). This Public Reprimand, which is issued in connection with Third Amended Accusation No. 800-2015-010916, is as follows:

“You managed patient J.F.’s chronic pain from June 2012 through November 2014. Your treatment consisted of attempts at pain control with the prescribing of controlled substances. In or about March 2013, you became aware that J.F. was admitted to the hospital for an overdose of medication. At his next follow-up appointment, you refilled J.F.’s opioid prescription. Your documentation of J.F.’s care and treatment was inadequate because you failed to consistently address the four “A’s” of pain management (analgesia, activities of daily living or psychosocial functioning, adverse effects, and aberrant behaviors) and failed to qualify the reason for J.F.’s continued opioid prescription, as more fully described in Third Amended Accusation No. 800-2015-010916.

“You also managed the chronic pain of patients S.A. (from June 2012 through March 2016), D.W. (from June 2012 through May 2016), and R.G. (from May 2012 through September 2014) with the prescribing of controlled substances. Your documentation of S.A., D.W., and R.G.’s care and treatment was inadequate because you failed to consistently address the four “A’s” of pain management.”

B. PRESCRIBING PRACTICES COURSE. IT IS FURTHER ORDERED THAT
within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in prescribing practices approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete

1 the classroom component of the course not later than six (6) months after Respondent's initial
2 enrollment. Respondent shall successfully complete any other component of the course within
3 one (1) year of enrollment. The prescribing practices course shall be at Respondent's expense
4 and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of
5 licensure.

6 A prescribing practices course taken after the acts that gave rise to the charges in the
7 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
8 or its designee, be accepted towards the fulfillment of this condition if the course would have
9 been approved by the Board or its designee had the course been taken after the effective date of
10 this Decision.

11 Respondent shall submit a certification of successful completion to the Board or its
12 designee not later than 15 calendar days after successfully completing the course, or not later than
13 15 calendar days after the effective date of the Decision, whichever is later.

14 **C. MEDICAL RECORD KEEPING COURSE. IT IS FURTHER ORDERED**
15 **THAT** within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a
16 course in medical record keeping approved in advance by the Board or its designee. Respondent
17 shall provide the approved course provider with any information and documents that the approved
18 course provider may deem pertinent. Respondent shall participate in and successfully complete
19 the classroom component of the course not later than six (6) months after Respondent's initial
20 enrollment. Respondent shall successfully complete any other component of the course within
21 one (1) year of enrollment. The medical record keeping course shall be at Respondent's expense
22 and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of
23 licensure.

24 A medical record keeping course taken after the acts that gave rise to the charges in the
25 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
26 or its designee, be accepted towards the fulfillment of this condition if the course would have
27 been approved by the Board or its designee had the course been taken after the effective date of
28 this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

D. FAILURE TO COMPLY. Failure to comply with any of the terms of this Disciplinary Order shall constitute general unprofessional conduct and may serve as grounds for further disciplinary action.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Raymond J. McMahon, Esq. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 5/6/19

JAY HAI YOO, M.D.
Respondent

I have read and fully discussed with Respondent Jay Hai Yoo, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: May 7, 2019

RAYMOND J. MCMAHON, ESQ.
Attorney for Respondent

[Endorsement on following page]


ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

Dated: May 8, 2019

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General


CHRISTINA SEIN GOOT
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Third Amended Accusation No. 800-2015-010916

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13 In the Matter of the Third Amended Accusation
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15 JAY HAI YOO, M.D.

16 6912 Iron Oak Drive
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17 Physician's and Surgeon's Certificate No. C 43367,

18 Respondent.
19

Case No. 800-2015-010916

20 **THIRD AMENDED ACCUSATION**

21 Complainant alleges:

22 **PARTIES**

23 1. Kimberly Kirchmeyer (Complainant) brings this Third Amended Accusation solely in
24 her official capacity as the Executive Director of the Medical Board of California, Department of
25 Consumer Affairs (Board).

26 2. On August 21, 1996, the Board issued Physician's and Surgeon's Certificate No. C
27 43367 to Jay Hai Yoo, M.D. (Respondent). That license was in full force and effect at all times
28 relevant to the charges brought herein and will expire on June 30, 2020, unless renewed.

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FIRST CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

7. Respondent's license is subject to disciplinary action under section 2234, subdivision (c), of the Code, in that he committed repeated negligent acts during the care and treatment of patients J.F., S.A., D.W., and R.G. The circumstances are as follows:

Patient J.F.

8. On or about June 26, 2012, patient J.F., a then 51-year-old male, was referred to Respondent for a variety of pain complaints, including neck, mid and low back pain. This patient had the existing diagnoses of lumbar spondylosis with left lumbar radiculopathy, cervical post-laminectomy syndrome, bilateral carpal tunnel syndrome, history of bipolar disorder and attention deficit-hyperactivity disorder. Respondent saw patient J.F. every two or three months from June of 2012 through November 11, 2014. Respondent's treatment consisted of attempts at pain control with the prescribing of the opioid Percocet¹ combined with Soma.²

9. On or about March 7, 2013, Respondent became aware that patient J.F. was admitted to the hospital for an overdose of medication. At patient J.F.'s next follow-up appointment, on or about March 19, 2013, Respondent refilled J.F.'s opioid prescription.

10. The standard of care requires a medical history and physical examination to be completed. This includes an assessment and documentation of the four "A's" of pain management – analgesia, activities of daily living (or psychosocial functioning), adverse effects, and aberrant behaviors – at each patient encounter.

11. Respondent's care and treatment of patient J.F. includes the following acts and/or omissions which constitute simple departures from the standard of care:

A. Respondent's documentation was incomplete because he failed consistently to address the four "A's" of pain management.

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¹ Percocet is a brand name for oxycodone with acetaminophen. It is a short-acting opioid analgesic. Percocet is a Schedule II controlled substance.

² Soma is a brand name for carisoprodol, which is a centrally-acting skeletal muscle relaxant. It is a Schedule IV controlled substance.

1 B. Respondent prescribed opioids to J.F. following his discharge from a hospital
2 for an overdose, without further qualifying the reason for the continued opioid prescription.

3 Patient S.A.

4 12. On or about June 27, 2012, Respondent undertook the care and treatment of patient
5 S.A., a then 40-year-old female, who had a history of chronic low back pain due to L5-S1 discitis
6 with possible osteomyelitis, and bilateral carpal tunnel syndrome. Respondent saw patient S.A.
7 every two or three months from June of 2012 through March 2016. Respondent's treatment
8 consisted of attempts at pain control with the prescribing of Norco,³ Neurontin,⁴ and Robaxin.⁵
9 Respondent prescribed Norco to patient S.A. for four years combined with prescribing Restoril⁶
10 for three years.

11 13. The standard of care requires a medical history and physical examination to be
12 completed. This includes an assessment and documentation of the four "A's" of pain
13 management – analgesia, activities of daily living (or psychosocial functioning), adverse effects,
14 and aberrant behaviors – at each patient encounter.

15 14. Respondent's care and treatment of patient S.A. includes the following act and/or
16 omission, which constitutes a simple departure from the standard of care: Respondent's
17 documentation was incomplete because he failed consistently to address the four "A's" of pain
18 management.

19 Patient D.W.

20 15. In or about June, 2012, Respondent again undertook the care and treatment of patient
21 D.W., a then 70-year-old male, who suffered from chronic headaches attributed to left occipital

22 ³ Norco is a brand name for hydrocodone with acetaminophen, an opioid analgesic. Prior
23 to October 6, 2014, hydrocodone with acetaminophen was a Schedule III controlled substance.
Currently, it is a Schedule II controlled substance.

24 ⁴ Neurontin is a brand name for gabapentin, which is used to treat seizures and relieve
25 nerve pain. It is a Schedule V controlled substances.

26 ⁵ Robaxin is brand name for methocarbamol, which is a central nervous system depressant
with sedative and musculoskeletal relaxant properties.

27 ⁶ Restoril is a brand name for temazepam, an intermediate-acting benzodiazepine used to
28 treat insomnia. Temazepam is a Schedule IV controlled substance.

1 neuralgia, chronic abdominal pain, and anxiety disorder. Respondent previously treated this
2 patient in the period of 2005 through 2008. Respondent saw patient D.W. every two to four
3 months from June 3, 2012 through May 5, 2016. Respondent's treatment consisted of attempts at
4 pain control with the prescribing of morphine sulfate⁷ and Fioricet with codeine.⁸ Respondent
5 prescribed morphine sulfate and Fioricet with codeine to this patient for twenty-eight months,
6 combined with prescribing Xanax⁹ for almost forty-five months.

7 16. The standard of care requires a medical history and physical examination to be
8 completed. This includes an assessment and documentation of the four "A's" of pain
9 management – analgesia, activities of daily living (or psychosocial functioning), adverse effects,
10 and aberrant behaviors – at each patient encounter.

11 17. Respondent's care and treatment of patient D.W. includes the following act and/or
12 omission, which constitutes a simple departure from the standard of care: Respondent's
13 documentation was incomplete because he failed consistently to address the four "A's" of pain
14 management.

15 Patient R.G.

16 18. On or about May 11, 2012, Respondent undertook the care and treatment of patient
17 R.G., a then 55-year-old male, who suffered from chronic back pain, bilateral hip pain, right knee
18 and bilateral hand pain attributed to fibromyalgia syndrome, with potential contribution from
19 cervical and lumbar spondylosis and polyneuropathy. Patient R.G. also suffered from an anxiety
20 disorder. Respondent saw patient R.G. every two or three months from May 11, 2012, through
21 September 4, 2014. Respondent's treatment consisted of attempts at pain control with the
22 prescribing of Methadone,¹⁰ Norco, Percocet, Xanax, Neurontin, and Robaxin. Respondent

23 ⁷ Morphine is an opioid analgesic drug. It is a Schedule II controlled substance.

24 ⁸ Fioricet is a brand name for a combination drug of butalbital 50 mg (a barbiturate),
25 acetaminophen 300 mg, caffeine 40 mg, and codeine phosphate 30 mg (a narcotic). It is a
Schedule III controlled substance.

26 ⁹ Xanax is a brand name of alprazolam, which is a short-acting benzodiazepine used to
27 treat anxiety. It is a Schedule IV controlled substance.

28 ¹⁰ Methadone is a synthetic opioid that is a Schedule II controlled substance.

1 prescribed Morphine and Xanax to patient R.G. for nearly four years, and then added Norco and
2 Percocet in the last ten months of treatment.

3 19. The standard of care requires a medical history and physical examination to be
4 completed. This includes an assessment and documentation of the four "A's" of pain
5 management – analgesia, activities of daily living (or psychosocial functioning), adverse effects,
6 and aberrant behaviors – at each patient encounter.

7 20. Respondent's care and treatment of patient R.G. includes the following act and/or
8 omission, which constitutes a simple departure from the standard of care: Respondent's
9 documentation was incomplete because he failed consistently to address the four "A's" of pain
10 management.

11 **SECOND CAUSE FOR DISCIPLINE**

12 (Failure to Maintain Adequate and Accurate Records)

13 21. Respondent's license is subject to disciplinary action under section 2266, of the Code,
14 in that Respondent failed to maintain adequate and accurate records for patients J.F., S.A., D.W.,
15 and R.G. The circumstances are as follows:

16 22. Complainant refers to and, by this reference, realleges the allegations set forth in the
17 First Cause for Discipline, as though set forth fully herein.

18 23. Respondent's care and treatment of Patients J.F., S.A., D.W., and R.G. as set forth in
19 Paragraph 22, above, constitute failure to maintain adequate and accurate records.

20 **PRAYER**

21 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
22 and that following the hearing, the Medical Board of California issue a decision:

23 1. Revoking or suspending Physician's and Surgeon's Certificate No. C 43367, issued to
24 Jay Hai Yoo, M.D.;

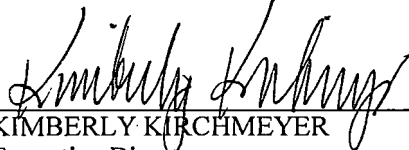
25 2. Revoking, suspending or denying approval of Jay Hai Yoo, M.D.'s authority to
26 supervise physician assistants and advanced practice nurses;

27 3. If placed on probation, ordering Jay Hai Yoo, M.D. to pay the Board the costs of
28 probation monitoring; and

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4. Taking such other and further action as deemed necessary and proper.

DATED: April 30, 2019


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

Complainant

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